

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4878

IN THE MATTER OF:

Served June 21, 1996

Investigation of Unauthorized  
Operations of C&M TOUR &  
TRANSPORT, INC.

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Case No. MP-96-43

Article XI, Section 6(a), states that a person may not engage in transportation subject to the Compact unless there is in force a certificate of authority issued by the Commission authorizing the person to engage in that transportation. Article XIII, Section 6(f), provides that a person who knowingly and willfully violates a provision of the Compact shall be subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for any subsequent violation and that each day of the violation constitutes a separate violation.

Respondent, C&M Tour & Transport, Inc. (respondent or C&M II), has never held any operating authority from this Commission. Respondent applied for a certificate of authority in 1995 by filing a joint application with C&M Corporation, trading as C&M Transport (C&M I).<sup>1</sup> The application sought Commission approval to transfer Certificate of Authority No. 209 from C&M I to C&M II.<sup>2</sup> Certificate No. 209 was suspended at the time for C&M I's noncompliance with the minimum liability insurance requirements prescribed in Commission Regulation No. 58.<sup>3</sup> The joint application was accepted for filing on April 21, 1995, and conditionally approved on December 5, 1995,<sup>4</sup> but respondent failed to satisfy the conditions prerequisite to reissuance of Certificate No. 209,<sup>5</sup> which now stands revoked by operation of Commission Regulation No. 65.<sup>6</sup>

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<sup>1</sup> Brian Chang and Matthew Moon were the officers/controllers of both corporations at all times relevant to this proceeding.

<sup>2</sup> In re C&M Corp., t/a C&M Transport, & C&M Tour & Transport, Inc., No. AP-95-25, Order No. 4584 (Apr. 26, 1995).

<sup>3</sup> Order No. 4584.

<sup>4</sup> In re C&M Corp., t/a C&M Transport, & C&M Tour & Transport, Inc., No. AP-95-25, Order No. 4715 (Dec. 5, 1995).

<sup>5</sup> In re C&M Tour & Transport, Inc., No. MP-96-43, Order No. 4835 (May 9, 1996).

<sup>6</sup> In re C&M Corp., t/a C&M Transport, & C&M Tour & Transport, Inc., No. AP-95-25, Order No. 4793 (Mar. 13, 1996) (discussing effect of Regulation No. 65).

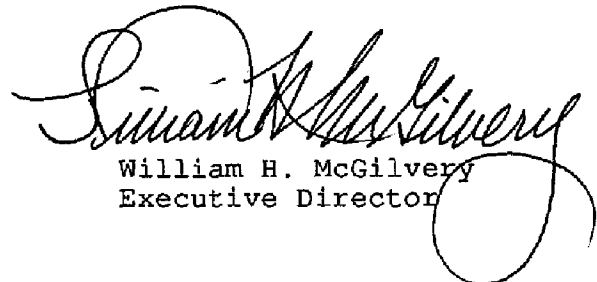


On March 19, 1996, the Commission received copies of ten driver time sheets obtained by the Federal Highway Administration (FHWA) during an audit of respondent's records. The records were forwarded to the Commission pursuant to a September 28, 1971, cooperative agreement between the Commission and the FHWA under Public Law No. 89-170. The records show that respondent conducted operations within our jurisdiction on ten occasions during the six month period beginning September 1, 1995, and ending February 29, 1996.

On May 9, 1996, we directed respondent to cease and desist from transporting passengers for hire between points in the Metropolitan District unless and until otherwise ordered by the Commission and to show cause within thirty days why a civil forfeiture should not be assessed for the ten violations.<sup>7</sup> No response was filed. We therefore find that the ten violations were knowing and willful. Under the circumstances, respondent could hardly claim otherwise. The Commission will assess a civil forfeiture against respondent in the amount of \$500 per day for ten days, for a total of \$5,000.

THEREFORE, IT IS ORDERED, that the Commission hereby assesses a civil forfeiture against respondent in the amount of \$5,000, for knowing and willful violations of the Compact, and that respondent is hereby directed to pay to the Commission within thirty days of the date of this order, by money order, certified check, or cashiers check, the sum of five thousand dollars (\$5,000).

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER AND LIGON:

  
William H. McGilvery  
Executive Director

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<sup>7</sup> Order No. 4835.

